



INSTRUCTIONS FOR PREPARING WEST VIRGINIA SURPLUS LINES PREMIUM TAX RETURNS - FORM LEB-4 AND LEB-4a

Leb4-INST
07/04

West Virginia Code Section 33-12C-7 states in part: "In addition to the full amount of gross premiums charged by the insurer, every person licensed pursuant to section eight [§33-12C-8] of this article shall collect and pay to the commissioner a sum equal to four percent of the gross premiums and gross fees charged, less any returned premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed on that portion of the gross premiums allocated to this state pursuant to subsection (g) of this section less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of the policy. The tax on any portion of the premium unearned at the termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any."

West Virginia Code Section 33-43-6 states in part: "(a) Any person who is subject to a tax in a given taxable year shall file a return for that tax and that taxable year, **even if the person has no tax liability for that taxable year.** (e) If a tax is to be paid in installments, the taxpayer shall file an appropriate return for each period for which an installment payment is calculated, **even if the taxpayer is not required to make an installment payment for that period.** The returns shall satisfy all requirements established for annual returns by this section except the filing date for an installment return is the date prescribed for the installment payment for the period described by the return. ..."

Based upon the above provisions and definitions of the West Virginia Code this Office has determined that surplus lines licensees must collect and remit the four percent tax to the Insurance Commissioner. Surplus lines licensees must use Form LEB-4 and LEB-4a to remit the tax to this Office. **Pursuant to W. Va.**

Code § 33-43-6(a) and (e) all returns must be filed even if there is no tax liability.

WHEN AND WHERE TO FILE

Form LEB-4 is due on or before the twenty-fifth day of the month succeeding the end of the first, second, and third calendar quarter, ie: April 25, July 25, and October 25. LEB-4a is due on or before the first day of March.

Returns are to be filed by mailing to:

Tax Audit Section
Offices of the West Virginia
Insurance Commissioner
P. O. Box 50542
Charleston, WV 25305-0542

or ship to:

Tax Audit Section
Offices of the West Virginia
Insurance Commissioner
Room 400
1124 Smith Street
Charleston, WV 25301

PAYMENT OF TAX

The balance of tax shown to be due on the return must be paid in full with the return. Failure to pay the tax on time will subject the taxpayer to assessment of penalties and interest. Make checks payable to the West Virginia Insurance Commissioner. **File returns with no tax liability indicating zero amount due.**

SIGNATURE AND VERIFICATION

All returns must bear the original signature of the surplus lines licensee. Fax copies, rubber stamps, or photocopies of signatures are not considered original signatures.



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TAXABLE PERIOD

Taxable periods for Form LEB-4 are based on calendar year quarters ending March 30, June 30, and September 30. Form LEB-4a is used to make the fourth quarter filing and year-end reconciliation due March 1 of the following year.

FOR INFORMATION AND FORMS

Mail requests for information and forms to:

Tax Audit Section
Offices of the West Virginia
Insurance Commissioner
P. O. Box 50542
Charleston, WV 25305-0542 or

Forms are also available at:

www.wvinsurance.gov

Fax your request to 304-558-1365 or

To speak with a tax audit representative:

Phone the Financial Conditions Division at
304-558-2100, ext. 153 or ext. 164.
Monday through Friday 8 a.m. to 5 p.m.

LINE – BY – LINE INSTRUCTIONS FOR LEB-4

Line 1. Gross premiums written this quarter. Enter gross premiums received plus any related finance and service charges. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 2. Less premiums returned to policyholders because of cancellation of policy this quarter. Enter total premiums returned this quarter.

Line 3. Net premiums taxable. (Line 1 minus Line 2)

Line 4. Total fees received. Enter total of fees received on surplus line policies procured by the surplus line broker.

Line 5. Total premiums and fees taxable. (Line 3 plus Line 4)

Line 6. Calculated tax due this quarter. (Line 5 times 4%)

Line 7. Less overpayment applied. Enter any overpayment of tax from prior periods. Attach copy of overpayment letter issued by the Insurance Commissioner.

Line 8. Net tax due this quarter. Enter net amount of tax to be remitted with this quarterly return. (Line 6 minus Line 7) If amount is negative, no remittance is due. **Return must be filed even if there is no tax liability.**

LINE – BY – LINE INSTRUCTIONS FOR LEB-4a

COLUMN 1

Line 1-Column 1. Total premiums written for first three quarters of reporting year. Enter gross premiums written plus any related finance and service charges. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal total of Line 1 of LEB-4 amounts reported on quarterly returns for year.

Line 2-Column 1. Less total premiums returned to policyholders because of cancellation of policies for first three quarters of reporting year. Should equal total of Line 2 of LEB-4 amounts reported on quarterly returns for year.

Line 3-Column 1. Net premiums written (Line 1-Column 1 minus Line 2-Column 1). Should



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equal total of Line 3 of LEB-4 amounts reported on quarterly returns for year.

Line 4-Column 1. Total fees received for first three quarters of reporting year. Enter total fees received on surplus line policies procured by the surplus lines licensee. Should equal total of Line 4 of LEB-4 amounts reported on quarterly returns for year.

Line 5-Column 1. Total premiums and fees taxable (Line 3-Column 1 plus Line 4-Column 1). Should equal total of Line 5 amounts reported on quarterly returns for year.

Line 6-Column 1. Calculated tax due for first three quarters of reporting year. (Line 5-Column 1 times 4%). Should equal total of Line 6 of LEB-4 amounts reported on quarterly returns for year. This amount should have been remitted with the quarterly returns.

COLUMN 2

Line 1-Column 2. Gross premiums written for fourth quarter of reporting year. Enter gross premiums written plus any related finance and service charges. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 2-Column 2. Less premiums returned to policyholders because of cancellation of policy. Enter total premiums returned for fourth quarter.

Line 3-Column 2. Net premiums written for the fourth quarter. (Line 1-Column 2 minus Line 2-Column 2).

Line 4-Column 2. Fees received. Enter total fees received on surplus line policies procured by the surplus lines licensee during fourth quarter of reporting year.

Line 5-Column 2. Total premiums and fees taxable. (Line 3-Column 2 plus Line 4-Column 2).

Line 6-Column 2. Calculated tax due for fourth quarter. (Line 5-Column 2 multiplied by 4 percent).

COLUMN 3

Line 1-Column 3. Total gross premiums written for reporting year. Enter gross premiums written plus any related finance and service charges. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal sum of Line 1-Column 1 plus Line 1-Column 2. Should also agree with the total premiums reported on "Annual Report of Written Surplus Line Policies to the West Virginia Insurance Commissioner" (hereinafter referred to as "Annual Report").

Line 2-Column 3. Less total premiums returned to policyholder because of cancellation of policies this reporting year. Should equal sum of Line 2-Column 1 plus Line 2-Column 2. Should also agree with total returned premiums reported on "Annual Report".

Line 3-Column 3. Net premiums written. (Line 1-Column 3 plus Line 2-Column 3). Should equal sum of Line 3-Column 1 plus Line 3-Column 2. Should also agree with net premiums reported on "Annual Report".

Line 4-Column 3. Total fees received. Enter total of fees received on surplus line policies procured by the surplus lines licensee for the reporting year. Should equal sum of Line 4-Column 1 plus Line 4-Column 2. Should also agree with the total fees received as reported on the "Annual Report".

Line 5-Column 3. Total premium and fees taxable. (Line 3-Column 3 plus Line 4-Column 3).



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3). Should equal sum of Line 5-Column 1 plus Line 5-Column 2. Should also agree with total net premium and fees taxable as reported on "Annual Report".

Line 6-Column 3. Calculated tax due for reporting year. (Line 5-Column 3 times 4%). Should equal sum of Line 6-Column 1 plus Line 6-Column 2).

RECONCILIATION

Line 1. Total premium taxes for current calendar year. - Enter amount from Line 6-Column 3. Box is marked with ②.

Line 2. Total premium taxes paid for first three quarters. - Enter amount from Line 6-Column 1. Box is marked with ①.

Line 3. Premium taxes due - Line 1 minus line 2.

Line 4. Less overpayment applied. If you have an overpayment of premium taxes please enter it in this space. A copy of the overpayment letter received from this office should be included with your return.

Line 5. Final amount due with this return. (Line 3 minus Line 4). Please remit this amount with your return. **Return must be filed even if there is no tax liability.**

ALLOCATION OF MULTI-STATE RISKS

West Virginia Code Section 33-12C-7(a) states in part: " ... Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed on that portion of the gross premiums allocated to this state pursuant to subsection (g) of this section less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of the policy. ..."

West Virginia Code Section 33-12C-7(g) and (h) state: "(g) If a surplus lines policy procured through a surplus lines licensee covers properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to the properties, risks or exposures located or to be performed in this state. In determining the amount of premiums taxable in this state, all premiums written, procured or received in this state shall be considered written on properties, risks or exposures located or to be performed in this state, except premiums which are properly allocated or apportioned and reported as taxable premiums of a reciprocal state. In no event shall the tax payable to this state be less than the tax due pursuant to subsection (h) of this section; provided, however, in the event that the amount of tax due under this provision is less than fifty dollars in any jurisdiction, it shall be payable in the jurisdiction in which the affidavit required in section eleven (W. Va. Code 33-12C-11) is filed. The commissioner may, at least annually furnish to the commissioner of a reciprocal state, as defined in subsection (q), section three of this article, a copy of all filings reporting an allocation of taxes as required by this subsection.

(h) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to the model allocation schedule and reporting form.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the



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tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy."

A Surplus Lines Tax Allocation Schedule and Surplus Lines Tax Allocation Report are included in this tax packet. These items are also available at www.wvinsurance.gov

A surplus lines licensee must complete separate Surplus Lines Tax Allocation Reports for each policy covering properties, risks or exposures only partially located or to be performed in West Virginia. The amount of premium allocated to West Virginia as Item 5 for each report must be included as gross premiums written on Forms LEB-4, LEB-4a, XLB-SUR and XLB-SUR-R.

Each policy and the amount of premium allocated to West Virginia also must be reported on the "Annual Report of Written Surplus Lines Policies to the West Virginia Insurance Commissioner". The surplus lines licensee must file each completed Surplus Lines Tax Allocation Report with the Annual Report of Written Surplus Lines Policies to the West Virginia Insurance Commissioner on or before March 1.

Each surplus lines licensee must complete Item 7 of the Surplus Lines Tax Allocation Report listing each state in which an exposure exists and the corresponding premiums allocated to each state.